

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

| | | |
|---------------------------|---|--------------------------|
| DANIEL ELLSBERG, et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Civil Action No. 1879-72 |
| |) | |
| JOHN N. MITCHELL, et al., |) | |
| |) | |
| Defendants. |) | |
| |) | |

ANSWERS BY DEFENDANTS SAXBE
AND KELLEY TO PLAINTIFFS'
FURTHER INTERROGATORIES TO
DEFENDANTS KLEINDIENST AND GRAY

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, and in response to the Further Interrogatories from Plaintiffs to Defendants served by mail upon defendants' counsel on August 8, 1973, now comes Benjamin C. Flannagan, Attorney, Criminal Division, United States Department of Justice, Washington, D.C. 20530, having been designated to respond to said Further Interrogatories on behalf of defendants William B. Saxbe, Attorney General of the United States, and Clarence M. Kelley, Director, Federal Bureau of Investigation, who have, in their official capacity, been substituted for defendants Richard Kleindienst and Patrick Gray, III, in accordance with Rule 25(d)(1), Federal Rules of Civil Procedure; and, on the basis of information available to him in his official capacity aforesaid, deposes and says as follows:

Interrogatory No. 1.

State whether you, your agents or employees, or the agents or employees of your department or agency which you direct, or formerly directed, have, since July 19, 1968, authorized, procured, conducted

or received any electronic surveillance or other overhearing of wire or oral communications made by or to any of the following persons:

Interrogatory No. 1a. Daniel Ellsberg

Answer to Interrogatory No. 1a.

Yes. The Federal Bureau of Investigation overheard the telephone conversations of plaintiff Ellsberg as a result of electronic surveillances directed at other individuals, but not otherwise.

Interrogatory No. 1b. Anthony Joseph Russo, Jr.

Answer to Interrogatory No. 1b.

No.

Interrogatory No. 2.

If the response to Interrogatory 1 or to any part thereof is in the affirmative, please respond to the following additional interrogatories with respect to each instance of electronic surveillance or other overhearing indicated.

Interrogatory No. 2a. State the date of such electronic surveillance or other overhearing.

Answer to Interrogatory No. 2a.

During an electronic surveillance directed at the telephone located at the residence of Morton C. Halperin, plaintiff Ellsberg's conversations were overheard on the following dates:

August 30, 1969 (four instances);

March 25, 1970 (five instances);

May 9, 1970;

September 27, 1970;

November 11, 1970;

November 21, 1970; and

November 22, 1970.

During an electronic surveillance directed at the telephone located at the residence of William Anthony Lake, plaintiff Ellsberg was over-

September 27, 1970; and

November 27, 1970.

It is noted that the September 27, 1970 conversation was overheard on both the Halperin residence surveillance and the Lake residence surveillance, as the telephone call was made by plaintiff Ellsberg from the telephone at the Halperin residence to the telephone at the Lake residence.

Interrogatory No. 2b. State the precise location of the electronic device by means of which the overhearing was accomplished.

Answer to Interrogatory No. 2b.

See answer to Interrogatory No. 2h.

Interrogatory No. 2c. State the name of the person or address of the establishment at which the electronic surveillance or other overhearing was directed.

Answer to Interrogatory No. 2c.

See answer to Interrogatory No. 2a.

Interrogatory No. 2d. State whether such electronic surveillance or other overhearing was conducted pursuant to a court order.

Answer to Interrogatory No. 2d.

No.

Interrogatory No. 2e. If such electronic surveillance or other overhearing was conducted pursuant to a court order, state the name of the judge who signed the order and the date of its issuance.

Answer to Interrogatory No. 2e.

The answer to Interrogatory No. 2d being in the negative, no response to Interrogatory No. 2e is required.

Interrogatory No. 2f. If such electronic surveillance or other overhearing was not conducted pursuant to a court order, state by what other form of authority such surveillance was conducted, and if in written form, state the name of the person who signed the authorization,

the date of its issuance, and the name and address of its present custodian.

Answer to Interrogatory No. 2f.

Both electronic surveillances were conducted by the Federal Bureau of Investigation with the approval of the Attorney General of the United States under the authority of the President of the United States.

The written authorization for the Halperin residence surveillance is dated May 12, 1969 and was signed by former Attorney General John N. Mitchell. Its present custodian is the United States District Court for the District of Columbia.

The written authorization for the Lake residence surveillance is dated May 13, 1970 and was signed by former Attorney General John N. Mitchell. Its present custodian is the Director of the Federal Bureau of Investigation, Washington, D.C.

Interrogatory No. 2g. State the method by which such electronic surveillance or other overhearing was accomplished.

Answer to Interrogatory No. 2g.

See answer to Interrogatory No. 2h.

Interrogatory No. 2h. State the precise location of the electronic device by means of which the electronic surveillance or other overhearing was accomplished.

Answer to Interrogatory No. 2h.

The Federal Bureau of Investigation would orally furnish the C & P Telephone Company the telephone number to be monitored and the telephone company would then assign such number to a telephone line currently feeding into the monitoring installation at the Bureau's Washington (D.C.) Field Office. The hookup was, therefore, effected without any physical installation at the residence of the party involved or the Washington Field Office.

Interrogatory No. 2i. State the names, positions of employment, and present addresses if known, of all persons who participated in each such instance of electronic surveillance or other overhearing.

Answer to Interrogatory No. 2i.

Raymond Broz, Jr., and James D. Barnhardt, clerical employees of the Washington (D.C.) Field Office, Federal Bureau of Investigation.

Interrogatory No. 2j. State whether logs, memoranda, transcription, or any other form of record relating to such electronic surveillance or overhearing was prepared, and, if so, state the names and addresses of the custodians of each such record, and the precise whereabouts of each such record.

Answer to Interrogatory No. 2j.

The original logs and other memoranda prepared in the Halperin residence surveillance are in the custody of the United States District Court for the District of Columbia.

The original logs and other memoranda prepared in the Lake residence surveillance are in the custody of the Director of the Federal Bureau of Investigation, Washington, D.C.

Interrogatory No. 2k. State the names of all persons or agencies who have access to each such record.

Answer to Interrogatory No. 2k.

United States District Judge John Lewis Smith controls access to the original logs and other memoranda prepared in the Halperin residence surveillance.

Assistant Director W. R. Wannal and Inspector Thomas J. Smith, Intelligence Division, Federal Bureau of Investigation Headquarters, Washington, D.C., control access to the original logs and other memoranda prepared in the Lake residence surveillance.

Interrogatory No. 2l. State the names, positions of employment, and present addresses of the persons within your department or

determine, in response to appropriate inquiry, whether surveillance of a named person or at a specified location has been conducted.

Answer to Interrogatory No. 21.

Special Agents Russell H. Horner, John W. Dalseg and Parle Thomas Blake, Federal Bureau of Investigation Headquarters, Washington, D.C., conduct searches of the records pertaining to the 17 wiretaps instituted at the direction of the White House, which include the Halperin residence and Lake residence surveillances.

Special Agent William A. Harwood, Federal Bureau of Investigation Headquarters, Washington, D.C., has custody of the Special Indices of the Bureau pertaining to electronic surveillances conducted in both criminal and security matters; however, Agents desiring a check of the Special Indices are required to conduct the search themselves.

With respect to plaintiffs Ellsberg and Russo, searches for overhears in the indices maintained for the 17 White House electronic surveillances were conducted by Special Agent Blake. Search of the Bureau's Special Indices was conducted by Special Agent William W. Hamilton, Federal Bureau of Investigation Headquarters, Washington, D.C.

Benjamin C. Flannagan

BENJAMIN C. FLANNAGAN
Attorney, Department of Justice
Washington, D.C. 20530

Subscribed and sworn to before me this 9th day of October, 1974.

Sharon Schult
Notary Public

CERTIFICATE OF SERVICE

I certify that on this date I served a copy of the foregoing

ANSWERS BY DEFENDANTS SAXBE
AND KELLEY TO PLAINTIFFS'
FURTHER INTERROGATORIES TO
DEFENDANTS KLEINDIENST AND GRAY

upon the plaintiffs by mailing a copy thereof to their following
counsel of record:

David Rein, Esquire
FORER & REIN
430 National Press Building
Washington, D. C. 20004

Leonard Boudin, Esquire
RABINOWITZ, BOUDIN & STANDARD
30 East 42nd Street
New York, New York 10017

October 10, 1974

Benjamin C. Flannagan

BENJAMIN C. FLANNAGAN

Attorney, Department
of Justice

Washington, D.C. 20530

Telephone: 202/739-3032